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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/466,541      | 12/17/1999  | DAN EHRING           | 18212-0011          | 1304             |

25696 7590 06/11/2003

OPPENHEIMER WOLFF & DONNELLY  
P. O. BOX 10356  
PALO ALTO, CA 94303

EXAMINER

POND, ROBERT M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3625

DATE MAILED: 06/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/466,541

Applicant(s)

EHRING ET AL.

Examiner

Robert M. Pond

Art Unit

3625

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The Applicant amended Claim 5 and added Claims 12-25. All pending claims 1-25 were examined in this final office action.

### ***Response to Arguments***

The Applicant's arguments are not persuasive. The Applicant's basis for traverse is built on the premise that the cited art is not rule-based. The cited art, however, is replete with disclosures pertaining to rules, policy, and to a preferred embodiment that is rule-based (please see at least Cook et al.: col. 25, line 6; col. 34, lines 7-23; col. 37, line 62 through col. 38, line 17). This examiner maintains the position that an intelligent agent guided by rules and policy, interacting with and guiding the user is applicable is addressing the instant claims.

### ***Drawings***

1. New corrected drawings are required in this application because Figures 1-4, 6a-b, 7-13 do not meet margin requirements. Shaded areas in Figures 5a-c are difficult to read in present form and anticipate reproduction further reducing annotation legibility. Please refer to 37 CFR 1.84 for drawing requirements. The corrected drawings are required in reply to the Office action to avoid

abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 2. Claims 1-11 are rejected under 35 USC 103(a) as being unpatentable over Cook, et al., Paper #7, patent number 6,201,948, in view of PR Newswire (Paper #7, PTO-892 Item: U).**

Cook et al. teach a system and method of NetSage of an agent-based instruction system and method for interactive, adaptive, and individualized computer-assisted instruction. Cook et al. teach a software agent that adapts to each student by managing instruction that approximates a real tutor. Cook et al. further teach accepting data on the methods of instruction adopted by particular materials and on student performance in the instruction, accepting direct interactions from the student as well as the history of previous student performance stored in a student data object, accepting data on customization and assignments from a teacher, accepting data from the school comprising data on analysis of student body performance, and educational standards and criteria.

In the preferred embodiment, these inputs allow individualization of agent interaction (please see at least abstract; col. 4, line 38 through col. 7, line 40). Cook et al. further teach a) the use of applets as an executable program fragment advantageously downloaded to a client across the computer network, preferably the Internet over the World Wide Web, wherein the applet is used to represent a complete element of on-screen agent actions (e.g. video, animation, audio, text), b) implementation structures, c) system network, client hardware, server environment, database management, and system security, d) the instructional interface, e) the instructional design interface, f) software structures, g) authoring tools and system tools, and h) student data objects (see at least col. 8, lines 56-65; col. 14, line 50 through col. 18, line 26; col. 18, line 27 through col. 49, line 4).

Cook et al. teach all the above as noted under the 103(a) rejection and further teach the system and method of NetSage used as a virtual tutor in a school environment but does not address other uses of agent-based instruction. PR Newswire teaches NetSage debuting its Social Intelligence Server (SIS) V2.0 that manages social intelligence for e-commerce applications by delivering virtual assistants to web sites and automated voice systems. PR Newswire teaches NetSage demonstrating its technology by emulating a customer self-service transaction through integrated web and voice-enabled telephone interfaces. The demonstration features a virtual sales assistant enhancing the users shopping experiences by eliciting shopping criteria, assisting with catalogue browsing, and

supporting the completion of the online transaction. PR Newswire teaches the demonstration supporting voice inquiries and attempting to cross-sell items based on interest expressed during the web transaction. PR Newswire further teaches the SIS generating intelligent responses by interpreting previous user behavior, analyzing user characteristics and current actions, and maintaining the social data necessary to sustain personalized dialogs. PR Newswire further teaches SIS supporting a) electronic and voice commerce applications to increase purchases and boost customer retention, loyalty, and satisfaction, b) customer self-service to reduce support costs and strengthen brand recognition, and c) and web-based training where adaptive virtual mentors shepherd beginners through every step of the learning process. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Cook et al. to apply agent-based instruction in e-commerce and customer support scenarios as taught by PR Newswire, in order to help potential customers become better educated on topics of interest to the seller of goods or services, and thereby become more competent and willing to make a purchasing decision.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mr. Robert M. Pond** whose telephone number is 703-605-4253. The examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Ms. Wynn Coggins** can be reached on 703-308-1344.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **703-308-1113**.

Any response to this action should be mailed to:

Art Unit: 3625

***Commissioner of Patents and Trademarks***

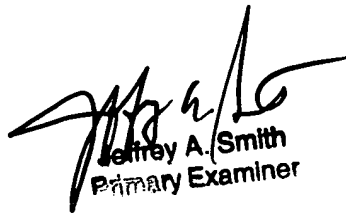
***Washington D.C. 20231***

or faxed to:

**703-305-7687** (Official communications; including After Final  
communications labeled "Box AF")

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal  
Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

RMP  
June 4, 2003

  
Jeffrey A. Smith  
Primary Examiner